

## **REMARKS**

This Response is in reply to the Office Action mailed on May 2, 2006. Claims 1-14, 16, 21, 41-43, 54-56, 62-64, and 66-70 were previously cancelled. Claims 15, 17-20, 27-30, 36-40, 44-47, 51-53, 57-61, and 72-86 are withdrawn from further consideration without prejudice. Claims 22-26, 31-35, 48-50, 65, 71, and 87 are pending and claims 22, 24, and 71 have been amended herein. Claim 87 is newly added. No new matter has been added. Entry and consideration of the amendments and following remarks is respectfully requested.

## **ALLOWABLE SUBJECT MATTER**

Applicant appreciates Examiner's indication that claims 31-35, 48-50, and 65 are allowed and that claims 24-26 would be allowable if rewritten so as not to depend from a rejected claim. Claim 24 has been amended herein to be put into independent form and to include the limitations of base claim 22 and intervening claim 23. Accordingly, claims 24-26 should now be in condition for allowance.

## **REJECTION UNDER 35 U.S.C. §102(b)**

Claim 71 stands rejected under 35 U.S.C. §102(b) as anticipated by U.S. pat. no. 6,623,519 to Edwin et al. (hereinafter "Edwin"). Amended claim 71 is not anticipated by Edwin. Claim 71, as currently amended, recites the limitation that the apparatus also include a stent-capturing means situated at the distal end region of the catheter assembly for releasably capturing the stent during deployment, retrieval and/or repositioning. Edwin shows no such stent-capturing means. Accordingly, the rejection has been overcome and should be withdrawn.

**REJECTION UNDER 35 U.S.C. § 103(a)**

Claims 22 and 23 stand rejected under 35 U.S.C. §103(a) as obvious over U.S. pat. no. 5,902,268 to Saab (hereinafter “Saab”) in view of Edwin. It is respectfully submitted that claim 22, as currently amended, is patentable over Saab in view of Edwin.

Independent claim 22 now recites the limitation that the apparatus also include a stent-capturing means situated at the distal end region of the catheter assembly for releasably capturing the stent during deployment, retrieval and/or repositioning. Neither Saab nor Edwin, either alone or in combination, teach or suggest a stent-capturing means. Accordingly, the rejection has been overcome and should be withdrawn. By reason of its dependency from claim 22, it is respectfully submitted that claim 23 is also allowable.

**NEWLY ADDED CLAIM 87**

Newly added claim 87 is identical to claim 22 as previously presented (i.e. prior to the current amendment). Accordingly, the questions of patentability raised by the Examiner with regard to claim 22 now apply to claim 87. For at least the reasons set forth below, the rejection is respectfully traversed.

The invention of claim 87 is an apparatus for deploying, retrieving and/or repositioning a stent having a shape memory. The apparatus includes an elongate catheter assembly, a thermal transfer device, and a circulation means. The elongate catheter assembly comprises at least one core catheter that has proximal and distal end regions. The thermal transfer device includes a balloon member operatively connected to the catheter assembly defining a chamber having a

thermal transfer wall, at least a part of which constitutes a thermal transfer material. The circulation means has at least one pair of inflow and outflow lumens formed in the core catheter substantially between the proximal and distal end regions of the catheter assembly. The lumens have distal ends opening at ports into the interior of said chamber. The lumens provide an inflow of thermal transfer fluid into the interior of the chamber for transferring thermal energy to a stent through the outer thermal transfer wall to adjust the temperature of the stent. The circulation means also provides an outflow of thermal transfer fluid from the interior of the chamber to the proximal end region of the catheter assembly. The balloon member has a distal end sealed in fluid sealing relationship around the circumference of the core catheter and a proximal end also sealed in fluid sealing relationship around the circumference of the core catheter.

Examiner relies on Saab as the primary reference in rejecting the invention of claim 87 (at the time, claim 22) stating that, "Saab discloses the invention substantially as claimed." Applicant respectfully disagrees. Since Examiner has not specifically pointed out the particular part of the Saab reference relied upon in rejecting the claimed invention, it is unclear how Examiner is reading the claim on the reference. However, Applicants argue that none of the embodiments of Saab teach or suggest the claimed invention.

Saab does not teach or suggest that the catheter assembly comprises at least one core catheter, and wherein the balloon member has a distal end sealed in fluid sealing relationship around the circumference of the core catheter and a proximal end also sealed in fluid sealing relationship around the circumference of the core catheter. In fact, Saab specifically teaches away from such a construction, by stressing that the balloons of Saab are integral with the

lumens of the catheter. The walls defining the catheter lumens, according to Saab, are formed as an integral part of the balloon (Col. 4, lines 33-37). Saab explicitly distinguished from the construction according to the claimed invention by contrasting his invention with lumens that are formed as part of a conventional catheter shaft, catheter lumens that communicate with or terminate in a balloon segment, and lumens in a shaft that pass coaxially through a balloon segment (Col. 4, lines 33-47). There is no balloon member having a distal end sealed in fluid sealing relationship around the circumference of the core catheter and a proximal end also sealed in fluid sealing relationship around the circumference of the core catheter in Saab because the balloon member is integral with the catheter, i.e. the balloon member is the catheter. Accordingly, the balloon member is only in contact with the catheter at one end, rather than at both ends, as required by the claim.

The secondary reference, Edwin, also fails to teach or suggest the above mentioned limitation. Accordingly, neither reference, either alone or in combination, discloses the claimed invention. In view of the arguments presented above, it is respectfully submitted that claim 87 is patentable over the prior art.


## **CONCLUSION**

In view of the amendments to claims 22, 24, and 71 made herein and the arguments presented above, it is submitted that the Examiner's rejections have been overcome and should be withdrawn. The application should now be in condition for allowance.

Should any changes to the claims and/or specification be deemed necessary to place the application in condition for allowance, the Examiner is respectfully requested to contact the undersigned to discuss the same.

This Response is being filed with a petition for a one-month extension of time and the required fee. In the event that any other extensions and/or fees are required for the entry of this Amendment, the Patent and Trademark Office is specifically authorized to charge such fee to Deposit Account No. 23-2820 in the name of Wolf, Block, Schorr & Solis-Cohen LLP. An early and favorable action on the merits is earnestly solicited.

Respectfully submitted,  
WOLF, BLOCK, SCHORR & SOLIS-COHEN  
LLP.

By:   
Noam R. Pollack  
Reg. No. 56,829

Wolf, Block, Schorr & Solis-Cohen LLP  
250 Park Avenue, 10th Floor  
New York, New York 10177  
(212) 986-1116